

F. Maguire

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-221569

DATE: June 2, 1986

MATTER OF: Coast Guard Membership Fees.

DIGEST:

1. The Coast Guard may use appropriated funds to purchase memberships, in its own name, in private organizations, notwithstanding the prohibition of 5 U.S.C. § 5946, if such memberships are of primary benefit to the Coast Guard and the Coast Guard determines that such memberships are necessary to carry out its statutory function.

2. The Coast Guard may pay a fee for membership in a private organization at the beginning of the membership period without violating the advance payment prohibition of 31 U.S.C. § 3324 (1982). The advance payment prohibition is not applicable because the Coast Guard receives the membership and is enrolled in the organization upon payment.

This decision is in response to a request from Rear Admiral W.P. Kozlovsky, Comptroller of the United States Coast Guard. Admiral Kozlovsky requests that this Office determine the legality of the use of appropriated funds to pay membership fees in private organizations. The memberships in question are to be purchased in the name of the Coast Guard and the fee is to be paid at the beginning of the membership period. As set forth below, we conclude that, assuming the Coast Guard determines the memberships are necessary to fulfill its statutory mission, the use of appropriated funds to purchase the memberships in question and the payment of the membership fee at the beginning of the membership period would be proper.

PAYMENT FOR MEMBERSHIPS

The Coast Guard has determined that memberships in certain private organizations would be beneficial to the Coast Guard and payment of the required membership fees would be in accordance with 31 U.S.C. § 1301 (1982), which requires that appropriations be "applied only to the objects for which the appropriations were made except as otherwise provided by law." The memberships are to be "purchased in the Coast Guard's name."

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The expenditure of appropriated funds to pay the membership dues of Federal employees in a society or association is generally prohibited by 5 U.S.C. § 5946 (1982). 53 Comp. Gen. 429, 430 (1973). However, we have held that the prohibition of 5 U.S.C. § 5946 does not apply when the membership is entered in the name of an agency rather than an individual. 31 Comp. Gen. 398-99 (1952). In general, agencies may obtain a membership in a private organization if such membership would be of primary benefit to the agency and if the agency determines that such membership is necessary to carry out its statutory functions. 53 Comp. Gen. 429, 431 (1973). For example, in 61 Comp. Gen. 542 (1982), this Office approved the use of appropriated funds to pay for membership of a Naval Air Development Center in a local Rotary Club. We held that if the "primary benefit of membership accrues to the agency, payment of the membership fee is proper even if individual employees participate and benefit incidentally from the activities of the association." 61 Comp. Gen. at 544. However, we concluded our decision in 61 Comp. Gen. 542 with the following caveat:

"Our conclusion in this case, however, does not mean that every military installation or regional Government office can use appropriated funds to join the Rotary, Kiwanis, Lions, and similar organizations. Under 5 U.S.C. § 5946, and our decisions cited above, appropriated funds can be used for agency membership in a private organization only when the agency can establish that the membership will contribute substantially to fulfillment of its mission. In this case, we have approved the expenditure only because we agree with the Center Commander's determination that participation in meetings of the Rotary is crucial to the Center's effectively carrying out its mission." 61 Comp. Gen. at 545.

The submission here does not reveal the particular organizations which the Coast Guard is to join. Accordingly, we conclude only that the Coast Guard may use appropriated funds to purchase memberships in private organizations, in its own name, provided the primary benefit of those memberships accrues to the Coast Guard and the Coast Guard can reasonably determine that those memberships are necessary to carry out its statutory responsibilities.

PAYMENT IN ADVANCE

Rear Admiral Kozlovsky also questions whether payment of membership fees at the beginning of the period of membership would violate the advance payment prohibition. In general, advance payments are prohibited by 31 U.S.C. § 3324 (1982) which provides in part: "a payment under a contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered." We conclude that the advance payment prohibition is not applicable in the case at hand. Here, the Government is purchasing a membership and receives the membership upon payment. Accordingly, no "advance" payment is involved. The Government gets the benefit of what it has purchased upon payment. Therefore, we conclude that the payment of membership fees at the beginning of the period of membership would not violate the advance payment prohibition of 31 U.S.C. § 3324 (1982).

Milton J. Jordan
for Comptroller General
of the United States